

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HARVEY J. KULKA and JOHN H. SCHRAMM

Appeal No. 1997-0199
Application No. 08/199,480¹

ON BRIEF

Before THOMAS, BARRETT, and RUGGIERO, Administrative Patent Judges.

RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-47, all of the claims pending in the present application. An amendment after final rejection was filed February 7, 1996 and was entered by the Examiner.

¹ Application for patent filed February 22, 1994.

The claimed invention relates to an active integrated circuit transponder mounted in or on a vehicle tire for sensing and transmitting vehicle tire condition parameters to a remote location. More particularly, Appellants indicate at pages 4-6 of the specification that, on receipt of an interrogation signal from a remote source, tire parameter sensors are activated and the transponder transmits an encoded radio frequency signal to the remote source containing encoded data representations of the sensed tire parameters.

Claim 1 is illustrative of the invention and reads as follows:

1. In combination with a vehicle tire, a transponder for sensing, storing and transmitting vehicle tire condition parameter data comprising:

a substrate mountable on a vehicle tire;

an integrated circuit chip mounted on the substrate, the integrated circuit chip including a processor, a memory, a receiver means connected to the processor for receiving an interrogation signal from a remote source, and a transmitter means connected to the processor for transmitting a signal containing data representative of the sensed tire condition parameter to a remote source;

sensor means, mounted on the substrate, for sensing a tire parameter at predetermined times when electrical power is applied to the sensor means, and for generating an output signal to the processor representative of the sensed tire parameter at each predetermined time;

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power supply means, mounted on the substrate, for supplying electrical power to the integrated circuit chip and the sensor means; and

antenna means, mounted on the substrate and connected to the receiver means and the transmitter means, for communicating an interrogation signal from the remote source to the receiver means and for communicating a signal from the transmitter means to the remote source;

the memory responsive to the processor for storing the output signal from the sensor means at the predetermined times.

The Examiner relies on the following prior art:

Griffiths et al. (Griffiths)	3,613,075	Oct. 12, 1971
Dunn et al. (Dunn)	4,911,217	Mar. 27, 1990
Higgs et al. (Higgs)	5,061,917	Oct. 29, 1991
Bowler et al. (Bowler)	5,231,872	Aug. 03, 1993

Claims 1-6, 9-16, 22-27, 30-36, and 43-47 stand finally rejected under 35 U.S.C. § 103 as being unpatentable over Higgs in view of Dunn and Bowler. Claims 7, 8, 17-21, 28, 29, and 37-42 stand finally rejected under 35 U.S.C. § 103 over Higgs in view of Dunn and Bowler and further in view of Griffiths.²

² The Examiner's statement of the grounds of rejection in the Answer does not include Bowler as a reference being relied

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Brief and Answer for the respective details thereof.

OPINION

It is our view, after consideration of the record before us, that the collective evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in claims 1-47. Accordingly, we reverse.

With respect to independent claims 1, 22, and 43, the Examiner proposes to modify the vehicle parameter monitoring system of Higgs by relying on Dunn to supply the missing teachings of remote source interrogation and mounting of the monitoring transponder on the vehicle tire. In the Examiner's view (Answer, page 4), the skilled artisan would have found it obvious to combine the two references "...in order to sense various tire abnormalities." Bowler is further added to the

on for the rejection of this grouping of claims. It is apparent, however, from the Examiner's reference to the rejection of independent claims 1 and 22 (which included Bowler as a prior art reference) and the statement at page 5 of the Answer, that Bowler is properly included as a prior art reference for this rejection.

combination as providing a teaching of monitoring sensed data at predetermined time periods with the Examiner suggesting (Answer, page 4) "...because the specific use of such in a tire parameter sensing apparatus is clearly suggested by Bowler."

In response, Appellants assert that the Examiner has failed to set forth a prima facie case of obviousness since proper motivation for one of ordinary skill to make the Examiner's proposed combination has not been established. Upon careful review of the applied prior art, we are in agreement with Appellants' stated position in the Brief. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. In re Fritch, 972 F.2d 1260, 1266, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). In the present instance, although Dunn teaches the mounting of a transponder in a tire and provides for interrogation from a remote source, Dunn's disclosure is directed to an identification system for inventory purposes. We fail to see how Dunn's system which is designed solely to provide tire identification information,

would have relevance to the tire parameter sensing and monitoring system of Higgs, or for that matter, the tire parameter monitoring system of Bowler. None of the problems sought to be overcome by Dunn would be expected to exist in the tire parameter monitoring system of Higgs or Bowler. Further, the systems of Higgs and Bowler obviate the need for Dunn's remote interrogation by either providing for transmission on sensing of an abnormality (Higgs) or for periodic transmission of stored sensed values (Bowler). In view of the above, we are left to speculate why the skilled artisan would employ the tire mounting or remote interrogation features of Dunn in Higgs and/or Bowler. The only reason we can discern is improper hindsight reconstruction of Appellants' claimed invention. In order for us to sustain the Examiner's rejection under 35 U.S.C. § 103, we would need to resort to speculation or unfounded assumptions or rationales to supply deficiencies in the factual basis of the rejection before us. In re Warner, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), cert. denied, 389 U.S. 1057 (1968), rehearing denied, 390 U.S. 1000 (1968). Accordingly, since the Examiner has not established a prima facie case of obviousness, the

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rejection of independent claims 1, 22, and 43, and claims 2-6, 9-16, 23-27, 30-36, and 44-47 dependent thereon, over the combination of Higgs, Dunn, and Bowler is not sustained.

With respect to the 35 U.S.C. § 103 rejection of dependent claims 7, 8, 17-21, 28, 29, and 37-42 as unpatentable over the combination of Higgs, Dunn, Bowler, and Griffiths, we note that Griffiths was applied solely to address the claimed tire revolution detection features. Griffiths, however, does not overcome the innate deficiencies of Higgs, Dunn, and Bowler and therefore, we do not sustain the obviousness rejection of claims 7, 8, 17-21, 28, 29, and 37-42.

In conclusion, we have not sustained the Examiner's rejections of any of the claims on appeal. Accordingly, the decision of the Examiner rejecting claims 1-47 is reversed.

REVERSED

JAMES D. THOMAS)
Administrative Patent Judge)
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)	BOARD OF PATENT
LEE E. BARRETT)	APPEALS
Administrative Patent Judge)	AND
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JOSEPH F. RUGGIERO)	
Administrative Patent Judge)	

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WILLIAM M. HANLON, Jr.
YOUNG & BASILE, P.C.
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084-3109

Leticia

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APJ RUGGIERO

APJ BARRETT

APJ THOMAS

DECISION: REVERSED

Send Reference(s): Yes No
or Translation (s)

Panel Change: Yes No

Index Sheet-2901 Rejection(s):

Prepared: August 10, 2000

Draft Final

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OB/HD GAU

PALM/ACTS 2/BOOK
DISK(FOIA)/REPORT